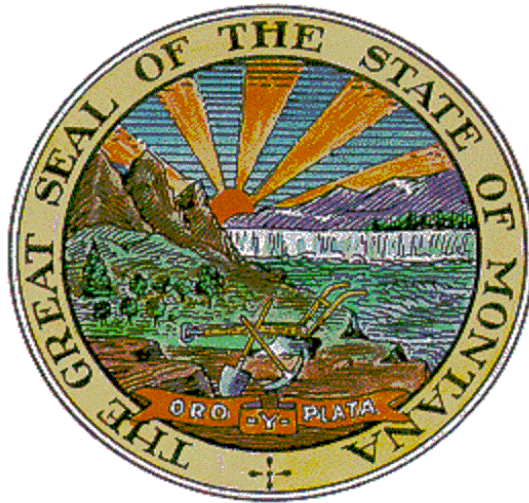


State of Montana
Department of Labor and Industry
Business Standards Division

PROGRAM SPECIFIC STATUTES RELATING TO FIRE
PREVENTION



ISSUED BY:

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**TITLE 50
CHAPTER 37
PART 1**

Part 1 -- General Provisions

- 50-37-101. Fireworks defined.
- 50-37-102. Where chapter not to apply.
- 50-37-103. Unlawful sale, transportation, or use of fireworks.
- 50-37-104. Lawful sales or uses of fireworks -- "no smoking" sign -- wholesaler's permit.
- 50-37-105. Permissible fireworks.
- 50-37-106. Sale of fireworks restricted to certain dates.
- 50-37-107. Supervised public display of fireworks authorized.
- 50-37-108. General liability insurance required for public display.
- 50-37-109. Confiscation.
- 50-37-110. Penalties.

Chapter Cross-References

Municipal power to regulate bonfires, fireworks, explosives, and inflammable materials, 7-33-4205, 7-33-4206.

Unlawful sale of fireworks, 45-5-623.

Part 1

General Provisions

50-37-101. Fireworks defined. The term "fireworks" means any combustible or explosive composition or any substance, combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation and includes sky rockets, roman candles, daygo bombs, blank cartridges, toy cannons, toy canes, or toy guns in which explosives other than toy paper caps are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, sparklers or other fireworks of like construction, any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance.

History: En. Sec. 2, Ch. 143, L. 1947; amd. Sec. 1, Ch. 136, L. 1957; amd. Sec. 1, Ch. 273, L. 1959; amd. Sec. 1, Ch. 107, L. 1961; amd. Sec. 14, Ch. 423, L. 1971; amd. Sec. 1, Ch. 79, L. 1974; amd. Sec. 17, Ch. 187, L. 1977; R.C.M. 1947, 69-2701(part).

50-37-102. Where chapter not to apply. (1) Nothing in this chapter shall be construed to prohibit the sale of any kind of fireworks to a person holding a permit issued under 50-37-107 at the display covered by such permits, the use of fireworks by railroads or other transportation agencies for signal purposes or illumination or when used in quarrying or blasting or other industrial use, or the sale or use of blank cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports, or for use by military organizations or organizations composed of veterans of the United States armed forces.

(2) This chapter does not apply to toy paper caps containing less than one-fourth of a grain of explosive composition per cap, to the manufacture, storage, sale, or use of signals necessary for the safe operation of railroads or other classes of public or private transportation, to the military or naval forces of the United States or this state, to peace officers, or to the sale or use of blank cartridges for ceremonial, theatrical, or athletic events.

(3) Nothing in this chapter authorizes the sale of fireworks in a city or town that has banned the sale of fireworks within the city or town as authorized in 7-33-4206.

History: (1)En. Sec. 5, Ch. 143, L. 1947; amd. Sec. 3, Ch. 273, L. 1959; Sec. 69-2704, R.C.M. 1947; (2)En. Sec. 2, Ch. 143, L. 1947; amd. Sec. 1, Ch. 136, L. 1957; amd. Sec. 1, Ch. 273, L. 1959; amd. Sec. 1, Ch. 107, L. 1961; amd. Sec. 14, Ch. 423, L. 1971; amd. Sec. 1, Ch. 79, L. 1974; amd. Sec. 17, Ch. 187, L. 1977; Sec. 69-2701, R.C.M. 1947; R.C.M. 1947, 69-2701(part), 69-2704; amd. Sec. 16, Ch. 37, L. 1979; amd. Sec. 4, Ch. 140, L. 1985; amd. Sec. 1, Ch. 410, L. 1989.

Cross-References

Municipal power to regulate fireworks, 7-33-4206.

50-37-103. Unlawful sale, transportation, or use of fireworks. (1) It is unlawful to possess, sell, transport, or use any fireworks within the state except as provided in this chapter.

(2) It is unlawful for an individual under the age of 18 to possess for sale, sell, or offer for sale within the state permissible fireworks enumerated in 50-37-105.

(3) It is unlawful for a wholesaler to sell or offer for sale within the state fireworks without a current fireworks wholesaler permit or in violation of 50-37-105. It is lawful for a wholesaler, however, to transport fireworks within Montana for sale outside of the state.

(4) It is unlawful to sell or offer for sale fireworks as defined in 50-37-101 or permissible fireworks as enumerated in 50-37-105 by mail order solicitation.

(5) It is unlawful to sell or offer for sale fireworks as defined in 50-37-101 or permissible fireworks as enumerated in 50-37-105 within 300 feet of a hospital or church.

(6) It is unlawful for an individual, firm, partnership, or corporation to discharge or cause to be discharged any pyrotechnics, fireworks as defined in 50-37-101, or permissible fireworks as enumerated in 50-37-105:

(a) within the exterior boundaries of a state forest, state park, or state recreation area;

- (b) within 100 feet of a fireworks retail sales location;
- (c) from, inside, or toward a motor vehicle; or
- (d) in the vicinity of another person or group of people or any animal in a manner likely to expose them to the risk of injury.

History: En. Sec. 2, Ch. 143, L. 1947; amd. Sec. 1, Ch. 136, L. 1957; amd. Sec. 1, Ch. 273, L. 1959; amd. Sec. 1, Ch. 107, L. 1961; amd. Sec. 14, Ch. 423, L. 1971; amd. Sec. 1, Ch. 79, L. 1974; amd. Sec. 17, Ch. 187, L. 1977; R.C.M. 1947, 69-2701(1), (5), (6), (8); amd. Sec. 1, Ch. 598, L. 1985.

Cross-References

State parks, Title 23, ch. 1, part 1.
Unlawful sale of fireworks, 45-5-623.

50-37-104. Lawful sales or uses of fireworks -- "no smoking" sign -- wholesaler's permit. (1) Subject to subsection (2), it is lawful for an individual, firm, partnership, corporation, or association to possess for sale, sell or offer for sale at retail, or use within the state the permissible fireworks enumerated in 50-37-105. At any place where permissible fireworks are sold or displayed, a sign reading "NO SMOKING" must be posted in letters at least 4 inches in height where customers are most likely to read it.

(2) Before a fireworks wholesaler may lawfully possess for sale, offer for sale, or sell within the state the permissible fireworks enumerated in 50-37-105, the wholesaler shall obtain a fireworks wholesaler permit from the department of labor and industry.

(3) A person making application for a fireworks wholesaler permit shall:

- (a) pay an application fee to the department of labor and industry, which must be set by the department of labor and industry commensurate with costs; and
- (b) furnish proof under oath, on a form provided by the department, that person:
 - (i) is at least 18 years of age;
 - (ii) is of good moral character; and
 - (iii) has not been convicted of a crime involving the use, possession, or sale of fireworks.

(4) The department of labor and industry shall adopt rules implementing this section.

History: En. Sec. 2, Ch. 143, L. 1947; amd. Sec. 1, Ch. 136, L. 1957; amd. Sec. 1, Ch. 273, L. 1959; amd. Sec. 1, Ch. 107, L. 1961; amd. Sec. 14, Ch. 423, L. 1971; amd. Sec. 1, Ch. 79, L. 1974; amd. Sec. 17, Ch. 187, L. 1977; R.C.M. 1947, 69-2701(3); amd. Sec. 2, Ch. 598, L. 1985; amd. Sec. 159, Ch. 483, L. 2001.

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.
Department of Labor and Industry, Title 2, ch. 15, part 17.

50-37-105. Permissible fireworks. Permissible fireworks, excluding sky rockets, roman candles, and bottle rockets, include and are limited to those that meet the definition of "common fireworks" as set forth in the U.S. department of transportation's Hazardous Materials Regulations, 49 CFR, parts 173.88 and 173.100, as they read on January 1, 1985, and that comply with the construction, chemical

composition, and labeling regulations of the U.S. consumer product safety commission, as set forth in 16 CFR, part 1507, as it read on January 1, 1985.

History: En. Sec. 2, Ch. 143, L. 1947; amd. Sec. 1, Ch. 136, L. 1957; amd. Sec. 1, Ch. 273, L. 1959; amd. Sec. 1, Ch. 107, L. 1961; amd. Sec. 14, Ch. 423, L. 1971; amd. Sec. 1, Ch. 79, L. 1974; amd. Sec. 17, Ch. 187, L. 1977; R.C.M. 1947, 69-2701(4); amd. Sec. 3, Ch. 598, L. 1985.

50-37-106. Sale of fireworks restricted to certain dates. A person, firm, or corporation may offer permissible fireworks, as defined in 50-37-105, of any kind for sale at retail only during the following periods:

- (1) June 24 through July 5; and
- (2) December 29 through December 31.

History: En. Sec. 2, Ch. 143, L. 1947; amd. Sec. 1, Ch. 136, L. 1957; amd. Sec. 1, Ch. 273, L. 1959; amd. Sec. 1, Ch. 107, L. 1961; amd. Sec. 14, Ch. 423, L. 1971; amd. Sec. 1, Ch. 79, L. 1974; amd. Sec. 17, Ch. 187, L. 1977; R.C.M. 1947, 69-2701(7); amd. Sec. 1, Ch. 284, L. 1999; amd. Sec. 1, Ch. 182, L. 2001; amd. Sec. 1, Ch. 108, L. 2003.

50-37-107. Supervised public display of fireworks authorized. (1) The state fire prevention and investigation program of the department of justice or the governing body of a city, town, or county may, under reasonable rules adopted by them, grant permits for supervised public displays of fireworks to be held by municipalities, fair associations, amusement parks, and other organizations or groups of individuals.

(2) Each display shall:

(a) be handled by a competent operator, who must be approved by the state fire prevention and investigation program or the governing body of the city, town, or county in which the display is to be held; and

(b) be located, discharged, or fired as, in the opinion of the state fire prevention and investigation program or the chief of the fire department or other officer designated by the governing body of the city, town, or county after proper inspection, not to be hazardous to persons or property.

(3) Application for permits shall be made in writing at least 15 days prior to the date of the display.

(4) After the privilege has been granted, sales, possession, use, and distribution of fireworks for the display are lawful for that purpose only.

(5) No permit granted under this section is transferable.

History: En. Sec. 3, Ch. 143, L. 1947; amd. Sec. 2, Ch. 273, L. 1959; amd. Sec. 18, Ch. 187, L. 1977; R.C.M. 1947, 69-2702; amd. Sec. 1, Ch. 164, L. 1981; amd. Sec. 5, Ch. 140, L. 1985; amd. Sec. 1, Ch. 706, L. 1991.

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

State fire prevention and investigation program, 2-15-2005; Title 50, ch. 3.

50-37-108. General liability insurance required for public display. The state fire prevention and investigation program or the governing body of the city, town, or county shall require a person planning a public display of fireworks to provide proof of

general liability insurance in a reasonable amount as determined by rules adopted by the department of justice.

History: En. Sec. 4, Ch. 143, L. 1947; R.C.M. 1947, 69-2703; amd. Sec. 6, Ch. 140, L. 1985; amd. Sec. 1, Ch. 706, L. 1991; amd. Sec. 4, Ch. 387, L. 2003.

Cross-References

Indemnity, Title 28, ch. 11, part 3.

50-37-109. Confiscation. A representative of the state fire prevention and investigation program or any sheriff, police officer, or constable shall seize, take, remove, or cause to be removed at the expense of the owner all stocks of fireworks or combustibles offered or exposed for sale, stored, or held in violation of this chapter.

History: En. Sec. 6, Ch. 143, L. 1947; R.C.M. 1947, 69-2705; amd. Sec. 1, Ch. 706, L. 1991.

Cross-References

State fire prevention and investigation program, 2-15-2005; Title 50, ch. 3.

50-37-110. Penalties. Any person, firm, partnership, association, or corporation violating the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$100 or more than \$500 or, in the case of individuals, the members of a partnership, and the responsible officers and agents of an association or corporation, by imprisonment in the county jail for a period of not less than 30 days or more than 6 months or by both such fine and imprisonment.

History: En. Sec. 7, Ch. 143, L. 1947; amd. Sec. 4, Ch. 273, L. 1959; R.C.M. 1947, 69-2706.

Cross-References

Criminal responsibility of corporations, 45-2-311.
Accountability for conduct of corporation, 45-2-312.

TITLE 50 CHAPTER 39 PART 1

Part 1 -- Regulation of Sales, Installation, and Servicing

- 50-39-101. License and endorsements required.
- 50-39-102. Application for license and endorsements.
- 50-39-103. Inspections, examinations, and hearings authorized.
- 50-39-104. Repealed.
- 50-39-105. Repealed.

- 50-39-106. Repealed.
- 50-39-107. Rulemaking authority.
- 50-39-108. Definitions.

Part 1

Regulation of Sales, Installation, and Servicing

50-39-101. License and endorsements required. (1) A person or entity shall obtain a license from the department of labor and industry before engaging in the business of servicing fire extinguishers or before engaging in the business of selling, servicing, or installing fire alarm systems, special agent fire suppression systems, or fire extinguishing systems. Each individual, except an apprentice, employed by the licensee to perform services under the license shall obtain from the department an endorsement to sell, service, or install:

- (a) fire alarm systems;
- (b) special agent fire suppression systems; or
- (c) fire extinguishing systems.

(2) The license and endorsement or endorsements must be prominently displayed at the business premises, and copies must be carried by the person conducting each installation or servicing and must be shown to anyone who requests to see them.

(3) It is a misdemeanor to knowingly or purposely service a fire extinguisher or sell, service, or install a fire alarm system, special agent fire suppression system, or fire extinguishing system without the required license and endorsement.

(4) This chapter may not be construed to prohibit a licensed electrician, practicing within the scope of practice of electricians, as provided in Title 37, chapter 68, from installing components of fire protection equipment if the installation is inspected and approved by an individual endorsed to sell, service, or install fire protection equipment.

History: En. 82-1202.1 by Sec. 3, Ch. 229, L. 1967; amd. Sec. 1, Ch. 120, L. 1969; amd. Sec. 25, Ch. 366, L. 1969; amd. Sec. 12, Ch. 226, L. 1974; amd. Sec. 1, Ch. 426, L. 1975; R.C.M. 1947, 82-1202.1(part); amd. Sec. 9, Ch. 706, L. 1991; amd. Sec. 1, Ch. 396, L. 1993; amd. Sec. 4, Ch. 514, L. 1995; amd. Sec. 42, Ch. 481, L. 1997; amd. Sec. 160, Ch. 483, L. 2001.

Cross-References

State fire prevention and investigation program, 2-15-2005; Title 50, ch. 3.

50-39-102. Application for license and endorsements. (1) An application for a license and any endorsements must be made on a form prescribed by the department of labor and industry.

(2) The department shall issue a license and endorsement to an applicant who:

(a) submits satisfactory proof that the applicant is properly equipped and staffed to provide the sales or services to be licensed and endorsed; and

(b) submits satisfactory proof that the applicant is insured to engage in the business covered by the license and endorsement or endorsements.

(3) The department shall:

(a) issue an endorsement to an applicant who scores a passing grade on an examination devised or approved by the department;

(b) issue an endorsement to an applicant who has been issued a letter of certification, specific to the endorsement being sought, from any national testing agency approved by the department; and

(c) renew the endorsement at the time intervals prescribed by the department and upon payment of the endorsement fee and submission of satisfactory proof that the endorsee has completed continuing education, training, or testing required by the department.

History: En. 82-1202.1 by Sec. 3, Ch. 229, L. 1967; amd. Sec. 1, Ch. 120, L. 1969; amd. Sec. 25, Ch. 366, L. 1969; amd. Sec. 12, Ch. 226, L. 1974; amd. Sec. 1, Ch. 426, L. 1975; R.C.M. 1947, 82-1202.1(4)(a); amd. Sec. 10, Ch. 706, L. 1991; amd. Sec. 2, Ch. 396, L. 1993; amd. Sec. 5, Ch. 514, L. 1995; amd. Sec. 43, Ch. 481, L. 1997; amd. Sec. 53, Ch. 492, L. 1997; amd. Sec. 161, Ch. 483, L. 2001.

Cross-References

State fire prevention and investigation program, 2-15-2005; Title 50, ch. 3.

50-39-103. Inspections, examinations, and hearings authorized. When requested by the department of labor and industry, the department of justice shall conduct inspections of the applicant's business facilities and shall report to the department of labor and industry the results of its inspection. The department of labor and industry may consider the inspection report and conduct examinations or hearings to determine an applicant's qualifications.

History: En. 82-1202.1 by Sec. 3, Ch. 229, L. 1967; amd. Sec. 1, Ch. 120, L. 1969; amd. Sec. 25, Ch. 366, L. 1969; amd. Sec. 12, Ch. 226, L. 1974; amd. Sec. 1, Ch. 426, L. 1975; R.C.M. 1947, 82-1202.1(part); amd. Sec. 11, Ch. 706, L. 1991; amd. Sec. 3, Ch. 396, L. 1993; amd. Sec. 6, Ch. 514, L. 1995; amd. Sec. 162, Ch. 483, L. 2001.

Cross-References

Right of privacy, Art. II, sec. 10, Mont. Const.

Searches and seizures, Art. II, sec. 11, Mont. Const.

50-39-104. Repealed. Sec. 46, Ch. 481, L. 1997.

History: En. 82-1202.1 by Sec. 3, Ch. 229, L. 1967; amd. Sec. 1, Ch. 120, L. 1969; amd. Sec. 25, Ch. 366, L. 1969; amd. Sec. 12, Ch. 226, L. 1974; amd. Sec. 1, Ch. 426, L. 1975; R.C.M. 1947, 82-1202.1(part); amd. Sec. 12, Ch. 706, L. 1991; amd. Sec. 4, Ch. 396, L. 1993; amd. Sec. 7, Ch. 514, L. 1995.

50-39-105. Repealed. Sec. 127, Ch. 467, L. 2005.

History: En. 82-1202.1 by Sec. 3, Ch. 229, L. 1967; amd. Sec. 1, Ch. 120, L. 1969; amd. Sec. 25, Ch. 366, L. 1969; amd. Sec. 12, Ch. 226, L. 1974; amd. Sec. 1, Ch. 426, L. 1975; R.C.M. 1947, 82-1202.1(4)(c), (4)(d); amd. Secs. 13, 38, Ch. 706, L. 1991; amd. Sec. 5, Ch. 396, L. 1993.

50-39-106. Repealed. Sec. 127, Ch. 467, L. 2005.

History: En. Sec. 7, Ch. 396, L. 1993; amd. Sec. 8, Ch. 514, L. 1995; amd. Sec. 163, Ch. 483, L. 2001.

50-39-107. Rulemaking authority. The department of labor and industry may adopt rules to implement this part.

History: En. Sec. 6, Ch. 396, L. 1993; amd. Sec. 9, Ch. 514, L. 1995; amd. Sec. 164, Ch. 483, L. 2001.

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

50-39-108. Definitions. As used in this chapter, the following definitions apply:

(1) "Apprentice" means a person who is working in a training capacity to service or install fire alarm systems, special agent fire suppression systems, or fire extinguishing systems and who is studying in accordance with a program approved by the department of labor and industry.

(2) "Endorsement" means a document, issued by the department of labor and industry to an individual who has met qualifications, that authorizes the individual to sell, service, and install fire alarm systems, special agent fire suppression systems, or fire extinguishing systems.

(3) "Entity" means any business, partnership, sole proprietorship, organization, association, corporation, firm, governmental organization, fire agency, or any other business association.

(4) (a) "Fire alarm system" means a combination of approved compatible devices with the necessary electrical interconnection and energy to produce an alarm signaling the event of fire or system activation.

(b) The term does not include single station smoke or heat detectors.

(5) "Fire extinguisher" means a portable device containing an extinguishing agent that can be expelled under pressure for the purpose of suppressing or extinguishing a fire.

(6) "Fire extinguishing system" means a fire sprinkler system designed in accordance with nationally recognized standards that consists of an assembly of piping or conduits that conveys water, foam, or air with or without other agents to dispersal openings or devices to extinguish, control, or contain fire and to provide protection from exposure to fire or the products of combustion. The term includes underground and overhead piping, ponds, tanks, pumps, extra or special hazard applications, and other related components or devices necessary for water supplies.

(7) "Inspection" means the periodic examination of premises, equipment, or procedures or of a licensed or endorsed person or entity to determine whether the person's or entity's business or profession is being conducted in a manner consistent with the public health, safety, and welfare. The term includes the inquiry, analysis, audit, or other pursuit of information, with respect to a written complaint or other information

before the department of labor and industry, that is carried out for the purpose of assisting the department of labor and industry in determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) whether a license should be granted or denied; or

(c) whether the department of labor and industry should seek an injunction against unlicensed practice.

(8) (a) "Install" means the technical work that may be performed only by an endorsed individual or an apprentice in the assembly of a fire alarm system, special agent fire suppression system, or fire extinguishing system.

(b) The term does not include the delivery of supplies or the offsite cutting or threading of pipe.

(c) The term does include the following tasks:

(i) inspection of job sites to determine the presence of obstructions and to ascertain that holes will not cause structural weaknesses;

(ii) determination of the course or plan of installation;

(iii) any job site bending of pipe or electrical conduit as part of the installation;

(iv) job site assembly and installation of metal or nonmetal pipe fittings, including but not limited to those made of brass, copper, lead, glass, and plastic;

(v) job site assembly and installation of wiring systems;

(vi) joining of piping by any means, including pipes joined by threaded, caulked, wiped, soldered, brazed, fused, or cemented joints;

(vii) securing of pipe, wire, or electrical conduit to the structure by any means, including but not limited to clamps, brackets, hangers, and welds; and

(viii) testing the installed system for electrical or mechanical malfunctions.

(9) "License" means the document issued by the department of labor and industry that authorizes a person or entity to engage in the business of servicing fire extinguishers or to engage in the business of selling, servicing, or installing fire alarm systems, special agent fire suppression systems, or fire extinguishing systems.

(10) "Sell", "sale", and associated words mean offering or contracting to transfer, lease, or rent any merchandise, equipment, or service at retail to the public or any member of the public for an agreed sum of money or other consideration.

(11) (a) "Service", when referring to portable fire extinguishers and fire extinguisher cylinders, means maintenance and includes breakdown for replacement of parts or for agent, repair, recharging, or hydrostatic testing.

(b) When referring to alarm systems, fire extinguishing systems, and fire suppression systems, the term means maintenance and testing required to keep the protective signaling, extinguishing, and suppression system and its component parts in an operative condition at all times, together with replacement of the system or its component parts with listed or approved parts when for any reason they become undependable, defective, or inoperative.

(c) The term does not include resetting manual alarm systems that may be reset by a properly trained building owner or the owner's designated representative.

(12) "Special agent fire suppression system" means an approved system and components that require individual engineering in accordance with manufacturer specifications and includes dry chemical, carbon dioxide, halogenated, gaseous agent,

foam, and wet chemical systems. The term includes a preengineered system but does not include a fire extinguishing system.

History: En. Sec. 39, Ch. 481, L. 1997; amd. Secs. 165, 221(1), Ch. 483, L. 2001.